

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

NHDES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456

April 15, 2002



CERTIFIED MAIL # 7099 3400 0018 1299 2187
RETURN RECEIPT REQUESTED

Board of Selectmen
Town of New Ipswich
661 Turnpike Road
New Ipswich, NH 03071

Letter of Deficiency
WMD 02-12

SUBJECT: 2002 Local Government Financial Test for New Ipswich Municipal Solid Waste Unlined Landfill Permit No. DES-SW-TP-95-034

Dear Members of the Board

The records of the Department of Environmental Services (DES) show that the Municipal Solid Waste Unlined Landfill (MSWLF) owned/operated by the Town of New Ipswich (Town) continued to receive waste after October 9, 1991 and did not complete capping of the facility by October 9, 1994. As such, the Town must comply with federal solid waste regulations that implement RCRA Subtitle D, codified in 40 CFR Part 258 which include requirements for closed landfills and landfill closure. The federal regulations include financial assurance requirements designated as Subpart G of Part 258.70, which call for owners and operators of MSWLFs to demonstrate that adequate funds will be readily available for the costs of closure, post-closure care, and corrective action for known releases associated with their facilities.

DES is responsible for the oversight of the RCRA-D program in New Hampshire. Additionally, MSWLF units are required to provide financial assurance pursuant to the New Hampshire Solid Waste Rules Part Env-Wm 3100 (Rules), a requirement that can be satisfied in the same fashion as called for by the federal regulations.

DES has notified the Town of the required documentation to attain compliance as follows:

- (a) 05/15/01 DES sent a letter (copy attached) reminding the Town that financial information was due no later than June 30, 2001.**
- (b) 07/26/01 DES sent a letter (copy attached) informing the Town that it was in violation of the Rules and federal regulation 40 CFR Part 258.74 and requesting that the required information be submitted within ten (10) working days from the Town's receipt of the letter.**
- (c) 11/14/01 DES sent a letter (copy attached) notifying the Town that DES review of the Town's financial assurance information indicated that the Town did not meet LOGO requirements and suggested that the Town consider revisiting costs based on a low permeability cap before obtaining a traditional financial assurance mechanism to cover a funding shortfall. DES requested in this letter that the Town contact DES to resolve the Town's deficiency in funding by November 30, 2001.**

(d) 12/12/01 A meeting of Mr. MacGillivray, HTA, and DES staff was held to discuss the current status of the landfill, closure costs, and options for the Town to correct a deficiency in funding the closure and post closure costs of the Town's landfill.

(e) 12/31/01 DES sent a letter to the Town (copy attached) outlining the steps necessary to bring the Town into compliance and informing the Town as follows: "If the Town intends to recalculate the cost of closure using a low permeable cap, or to use the decreased estimate of post-closure monitoring costs to defray the financial assurance shortfall, then it should submit the necessary calculations within 30 days from the date of this letter."

DES staff has corresponded with the Town regarding its need to meet LOGO requirements several times since the letter dated 12/31/01 was sent to the Town. As of this date, the Town has neither submitted revised closure and post-closure cost estimates or posted financial assurance to cover the shortfall.

The above noted deficiency can be corrected by 1) contacting Myrna Giroux of the Solid Waste Management Bureau at 271-2925 within 10 days of receipt of this letter, and providing an update on the status of meeting the financial assurance requirements; and 2) within thirty (30) days from receipt of this letter, submitting all of the previously requested information. In the event that the Town does not satisfy its financial assurance obligation, the Department may take further action against the Town, including issuing an administrative order requiring the deficiency to be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties.

Your prompt cooperation is appreciated. Should you have any questions regarding this matter, please do not hesitate to contact Myrna Giroux of the Solid Waste Management Bureau at 271-2925.

Sincerely,



COPY

Richard S. Reed
Administrator
Solid Waste Management Bureau

Enclosures: Copy of letters dated May 15, July 26, November 14, and December 31, 2001

cc: ✓Gretchen Rule, Administrator, Legal Unit
Patricia Juranty, SWMB (letter only)
Jeffrey MacGillivray, Town of New Ipswich (letter only)
Marc Morin, Hoyle, Tanner & Associates, Inc. (letter only)
Town File



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456



May 15, 2001

Board of Selectmen
Town of New Ipswich
661 Turnpike Road
New Ipswich, NH 03071

RE: 2001 Local Government Financial Test for New Ipswich Municipal Solid Waste Unlined Landfill Permit No. DES-SW-TP-95-034

Dear Members of the Board

As you are aware, the Town of New Ipswich (Town) has elected to satisfy its financial assurance requirements for the above noted unlined landfill through the LOGO financial test. Pursuant to 40 CFR 258.74 and the New Hampshire Solid Waste Rules (Rules) Part Env-Wm 3100 you are required to submit your annual update within 180 days of the Town's fiscal year end.

Please submit the following information to the Department of Environmental Services (Department) to my attention no later than June 30, 2001:

- CFO letter
- Annual Financial Report (FYE 12/31/00)
- Audit Opinion supporting the information in the CFO letter
- Audit Opinion stating audit was done in accordance with GAAP and the issuance of an unqualified opinion (or explanation of qualified opinion)
- Updated Cost Estimates for the closure and post-closure care of all facilities

The Department is not given the authority through federal regulations to waive any of the requirements or extend the date of filing. Therefore, the above information should be filed in a timely manner, and not later than June 30, 2001.

If you have any questions regarding this matter, please do not hesitate to contact me at the Solid Waste Management Bureau at 271-2925. A sample CFO letter and explanation of required documents to be filed is attached.

—Sincerely,

COPY

Myrna P. Giroux
Program Specialist III
Waste Management Bureau

cc: Richard S. Reed, SWMB
Town File



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



July 26, 2001

CERTIFIED MAIL # 7099 3400 0018 1299 3146
RETURN RECEIPT REQUESTED

Board of Selectmen
Town of New Ipswich
661 Turnpike Road
New Ipswich, NH 03071

**RE: 2001 Local Government Financial Test for New Ipswich Municipal Solid
Waste Unlined Landfill Permit No. DES-SW-TP-95-034**

Dear Members of the Board

As you are aware, the Town of New Ipswich (Town) has elected to satisfy its financial assurance requirements for the unlined landfill through the LOGO financial test. This letter serves to inform you that your facility has not complied with the New Hampshire Solid Waste Rules (Rules) Part Env-Wm 3100 and federal regulation 40 CFR Part 258.74. The Department of Environmental Services (Department) in a letter dated May 15, 2001, requested financial assurance documents. **As of this date none of the required information has been received.**

The following information is still needed so your Town's financial assurance compliance status can be resolved:

- 1) CFO Letter (sample attached). Please make sure that all the information is included
- 2) Cost Estimates for the closure and post-closure care of all facilities
- 3) Audit Opinion from an independent certified public accountant (or appropriate State agency). This must include an unqualified opinion or the explanation of a qualified opinion. Qualified opinions are reviewed on a case-by-case basis and may still be deemed acceptable in the Department's determination of the Town's ability to show financial assurance. The opinion must state that the audit was conducted in accordance with generally accepted auditing principles.
- 4) An Annual Financial Report (AFR). This report must contain a reference to the closure and post-closure care costs assured through the financial test. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date and the estimated landfill life in years.


5) An Audit Opinion is also required to confirm ALL the information found in the CFO letter.

Please submit the requested information to my attention within ten (10) working days from receipt of this letter. Your prompt cooperation is appreciated. Should you have any questions regarding this matter, please do not hesitate to contact me at the Solid Waste Management Bureau at 271-2925.

Sincerely,

A handwritten signature in cursive script, appearing to read "Myrna P. Giroux", is written over a large, bold, black "COPY" stamp.

Myrna P. Giroux
Program Specialist III
Solid Waste Management Bureau

cc:  Richard S. Reed, SWMB
FA File



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456

November 14, 2001



CERTIFIED MAIL # 7099 3400 0018 1299 2576
RETURN RECEIPT REQUESTED

Board of Selectmen
Town of New Ipswich
661 Turnpike Road
New Ipswich, NH 03071

RE 2001 Local Government Financial Test for New Ipswich Municipal Solid Waste
Unlined Landfill Permit No. DES-SW-TP-95-034

Dear Members of the Board

The Department of Environmental Services, Waste Management Division (Department) has reviewed all information submitted by the Town of New Ipswich to determine financial assurance compliance status using the local government financial test (LOGO).

Pursuant to the New Hampshire Solid Waste Rules Part Env.-Wm 3103.05(h)(2), Municipal Solid Waste Landfill units are required to assure that the total closure and post-closure costs do not exceed 43% of the local government's annual revenue.

The Department based its LOGO review on total revenues of \$1,717,619 for fiscal year ended December 31, 2000, as stated in the Town's financial statements. Using costs of \$1,017,658 for closure using an impermeable cap and \$255,000 (\$8500/year X 30 years) for post closure for a total of \$1,272,658 less \$32,582 for costs already paid by the Town, leaves a balance of \$1,240,076 in anticipated costs.

Forty-three percent of total revenues is \$738,576, leaving a shortfall of \$501,500. With the Town's assurance that the existing landfill capital reserve fund of \$335,699 would not be used for any purpose other than landfill closure costs, the shortfall could be reduced to \$165,801, which would have to be posted using a traditional financial assurance mechanism including a fully funded trust, surety bond, or letter of credit.

Although the Town may ultimately close with an impermeable (geomembrane) cap, either through choice or necessity, based on groundwater information filed to date, the landfill could currently be closed using a low permeability cap. The Department suggests that the Town prepare a closure cost estimate based on a low permeability cap, which should be less expensive than the geomembrane cap on which the Town's recent cost estimate is based. The cost of a low permeability cap will likely not result in a shortfall of financial assurance amounts covered by the LOGO demonstration. If this should be the case, you would not be required to use another financial assurance mechanism to cover the shortfall. Upon receipt of updated closure figures the Department will recalculate your financial assurance threshold.

Please contact the Department in regard to the Town's intentions to resolve this deficiency of funding by November 30, 2001. Your prompt cooperation in your efforts to fully meet the Town's 2001 LOGO requirements is appreciated. If you have any questions or need further assistance regarding this matter, please do not hesitate to contact Myrna Giroux of the Solid Waste Management Bureau at 271-2925.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard S. Reed', is written over the word 'COPY'.

Richard S. Reed
Administrator
Solid Waste Management Bureau

cc: Patty Juranty, SWMB
Catherine Wright, SWMB
Town File

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



NHDES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456

December 31, 2001

CERTIFIED MAIL # 7099 3400 0018 1299 2323
RETURN RECEIPT REQUESTED

Board of Selectmen
Town of New Ipswich
661 Turnpike Road
New Ipswich, NH 03071-0258

**Subject: New Ipswich Municipal Landfill
Permit #DES-SW-TP-95-034
December 12, 2001 Meeting**

Dear Members of the Board

The Department of Environmental Services (Department) would like to thank Mr. MacGillivray of the Town of New Ipswich (Town) and Mr. Morin of Hoyle Tanner and Associates (HTA), for meeting with David Rousseau, Catherine Wright, Patricia Juranty, and Myrna Giroux of the Department, on December 12, 2001 at the Department's Concord office. With respect to the meeting, and Mr. MacGillivray's telephone conversation with Catherine Wright on December 14, 2001, the Department offers the following:

A. Landfill Closure

Landfill Closure Schedule

Presently, the Department has the Town on its grant priority list to formally close the municipal landfill in 2003. Also, as you know, through the local government test (LOGO) per Env-Wm 3103.04(c)(2) of the New Hampshire Solid Waste Rules (Rules), eligible permittees that have elected the LOGO approach to meet financial assurance obligations must close and complete the installation of a capping system by December 31, 2003. Financial assurance is described in more detail in Item C of this letter. According to the agreed upon landfill closure schedule, between the Town and the Department dated December 15, 1998 (for reference, a copy of the letter is attached), the preliminary engineering design was to be provided to the Department on or before December 3, 2001. To date, the Department has not received this submittal.

The Department will anticipate receiving a revised landfill closure schedule from the Town within 30 days of the date of this letter, as was discussed with Mr. Morin of HTA during the Subject meeting.

Please include the dates for final waste receipt and the proposed final waste grades in the revised schedule. Please note that the proposed final grades should be provided to the Department as soon as possible. At the December 12, 2001 meeting with Department personnel, Mr. MacGillivray requested that the Town extend the date of final waste receipt to May 1, 2003. This is acceptable to the Department, provided capping is completed not later than December 31, 2002.

Landfill Cap Type

As was discussed during the meeting, based on the groundwater information filed to date, the landfill may be formally closed using a low permeable type cap. The Town may, however, decide to close using an impermeable type cap. Please note that if the landfill is capped using a low permeable type capping system and future groundwater tests indicate water quality in violation of New Hampshire Ambient Groundwater Quality Standards, the landfill will need to be closed following the more rigorous standards of those that require an impermeable type capping system.

In response to Mr. MacGillivray's request, the following is a list of Towns which have used using a short paper fiber material as a component of the low permeable layer of the landfill capping system: Loudon, Gilmanton, Goshen, and Marlborough. The Town should consult with its consultant to determine which cap type is most appropriate for the landfill.

Type II Permit Modification

Attached to this letter please find the "Type II Modification To Solid Waste Management Facility Permit" application form. A "Type II" permit modification is the regulatory mechanism by which final plans (construction, operation or financial assurance) are approved. This modification is necessary for approving the landfill closure construction plans for the New Ipswich Landfill. Please complete the form and provide it to the Department. There is no fee for filing this form.

B. Transfer Station

Mr. MacGillivray raised questions regarding siting requirements for a new transfer station, and transfer station construction and operation costs. With respect to this matter, the Department offers the following:

Pursuant to Env-Wm 2103.02 of the Rules, a transfer station facility shall be sited no less than 50 feet from the footprint of any landfill not yet capped. A lesser distance shall be permitted if the Department determines that the lesser distance shall not physically interfere with the proper operation or closure of any other facility, including but not limited to the Subject landfill. With this in mind, the Town should be advised that the current location of the transfer station building cannot interfere with the landfill closure. In addition, an enclosed building located on the landfill property may be at risk for impacts from landfill decomposition gas

an area determined to be potentially impacted by landfill gas, gas detection monitoring at the building location will be needed to ensure that operations are protective of human health and the environment.

The Department forwarded to Mr. MacGillivray a booklet titled "Transfer Station/Recycling Center Design and Operations Manual." In the manual is a worksheet titled "Estimating Transfer Station Capital and Operating Costs." The manual, and other informational documents that are pertinent to solid waste management, are also available on the Department Internet site at: <http://www.des.state.nh.us/pcas/maps.htm>.

Please be advised that there are several grant programs available through the state and federal government to assist municipalities in establishing and maintaining solid waste facilities. For information on these grants, please visit the Department Internet site at: <http://www.des.state.nh.us/pcas/grants>.

C. Financial Assurance

The Town is reminded that it needs to meet its current financial assurance obligation, the documentation for which was due June 30, 2001. If the Town intends to satisfy its financial assurance through the local government financial test (LOGO), the Department will base its review on 43% of the Town's annual revenue for fiscal year 2000 as well as the Town's capital reserve fund to include \$50,000.00 deposited into the fund in the spring of this year, and an additional fund totaling approximately \$23,000.00 to which Mr. MacGillivray referred at the December 12, 2001 meeting with DES personnel.

As discussed with Mr. MacGillivray at the Subject meeting, and taking these amounts into consideration, the Town would suffer a shortfall of approximately \$32,000.00 if the closure and post-closure cost estimates (a total of \$1,211,623.00, of which \$32,582.00 has been paid) submitted for an impermeable type cap were used. Of this amount, the post-closure monitoring period would cost \$255,000.00 (\$8,500 x 30 years).

At the meeting, Mr. MacGillivray suggested that the cost of post-closure monitoring and maintenance would likely decrease during the thirty year period, and that the \$255,000 estimate does not take this into account. In fact, the total thirty-year cost estimated by the Town as submitted by the Town's consultant, HTA, on October 19, 2001, was \$125,000. Although the Department agrees that it is reasonable to estimate that the cost of post-closure monitoring would decrease during the thirty-year period, in order for the Department to accept a specific figure for the total thirty-year cost that is less than \$255,000, the Town will need to submit calculations that specifically demonstrate how these costs are likely to decrease.

If the Town intends to recalculate the cost of closure using a low permeable cap, or to use the decreased estimate of post-closure monitoring costs to defray the financial assurance shortfall, then it should submit the necessary calculations within 30 days from the date of this letter.

Please note, that the Town will need to complete landfill closure no later than December 31, 2003 to remain eligible to use the local government (LOG) financial test as a means of financial assurance.

D Financial Assistance

Please be reminded that the State has developed three programs municipalities may be eligible for that provide financial assistance for landfill closure. The programs include the State Revolving Loan Fund (SRF), the State Guaranteed Bond Program (SGBP), and the State's 20% Landfill Closure Grant Program. More information on these financial assistance programs can be found on the Department web site at http://www.des.state.nh.us/grants_loans.htm. Information regarding eligibility criteria for these programs is also attached to this letter. Questions regarding the SRF program can be directed to Mr. George McMennamin of the Water Division at (603) 271-3448. To date, the Town has not submitted a pre-qualification package to the SRF program. Please note that if the Town intends to use this program, it should submit a pre-qualification package to the Department as soon as possible to ensure that funding is available for the Town at the time of closure.

The State's 20% Landfill Closure Grant Program includes a landfill closure priority list that allocates a finite amount of money each year to municipalities for landfill closure. Monies not spent in a given year return to the State's General Fund. As mentioned above, New Ipswich is on the priority list to receive grant assistance in 2003. Should the New Ipswich Municipal Landfill not close during 2003, a delay in disbursement of grant money to the Town will occur and availability of future funding will depend on legislative appropriations. As a reminder, once the preliminary design plans have been submitted, the Town may also submit an application for the State's 20% Landfill Closure Grant Program. The costs for the hydrogeologic investigations performed to date may also qualify for the Grant Program, and may be eligible for reimbursement at the time the preliminary design plans are submitted. Questions regarding the Grant Program and the SGBP can be directed to Ms. Patricia Juranty of the Waste Management Division at (603) 271-2925.

Summary

Within 30 days from the date of this letter, please provide the Department with a revised landfill closure schedule including dates for the following:

- a. Submit proposed final grades;
- b. Submit preliminary engineering plan and report;
- c. Submit final engineering plans, specifications, and contract documents (October of 2002);
- d. Waste termination date; and
Complete Closure Construction (no later than 2003)

2. If the Town intends to recalculate the cost of closure using a low permeable cap, or to use the decreased estimate of post-closure monitoring costs to defray the financial assurance shortfall, then it should submit the necessary calculations within 30 days from the date of this letter.

The Department appreciates the steps that the Town is taking regarding its formal landfill closure. I look forward to assisting the Town with its solid waste issues. Should you have any questions, I may be reached at 271-2925, or via e-mail at cawright@des.state.nh.us.

Sincerely,

 **COPY**




Catherine Wright
Waste Management Specialist
Solid Waste Management Bureau

CERTIFIED MAIL # 7099 3400 0018 1299 2323

Attachments:

- DES letter dated December 15, 1998
- Type II Modification Permit Application
- Informational Materials on the SRF and State Grant programs

cc:

 Reed, SWMB/NHDES
 D. Rousseau, SWMB/NHDES (via e-mail, without attachments)
 G. McMennamin WD/SRF (via e-mail, without attachments)
J. Regan, HWRB/NHDES (via e-mail, without attachments)
M. Guilfooy, PA&DRS, WMD (via e-mail, without attachments)
Mr. Jeffrey MacGillivray
Mr. Mark Morin, Hoyle, Tanner & Associates, 150 Dow Street, Manchester, NH 03101 (without attachments)
SWMB/DB